

ASSEMBLY BILL

No. 1406

Introduced by Assembly Member Gordon

February 27, 2015

An act to add Section 1824 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1406, as introduced, Gordon. Insurance: bail licenses.

(1) Existing law provides for the issuance of bail licenses under the jurisdiction of the Insurance Commissioner. Existing law requires persons soliciting or negotiating the execution or delivery of an undertaking of bail on behalf of a surety insurer to be licensed as a bail agent.

This bill would require each surety insurer or bail permittee to pay a fee, not to exceed \$30 per bail bond transaction. These fees would go to the Bail Investigation and Prosecution Fund, created as a special account in the Insurance Fund. This bill would provide that moneys in the Bail Investigation and Prosecution Fund be distributed by the commissioner, upon appropriation, to fund the reasonable costs incurred in regulating entities involved in the undertaking of bail, as specified. This bill would provide that if the total amount in the Bail Investigation and Prosecution Fund ever exceeds \$8,000,000, then the commissioner shall reduce the amount of the assessment, as specified. This bill would authorize the commissioner to develop guidelines to implement or clarify these provisions. This bill would require the commissioner to provide an annual report on the department's Internet Web site including various information, as specified.

(2) Existing constitutional provisions require that a statute that limits the public's right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1824 is added to the Insurance Code, to
2 read:

3 1824. (a) The Bail Investigation and Prosecution Fund is
4 hereby created as a special account within the Insurance Fund.
5 Each surety insurer or bail permittee admitted and authorized to
6 execute an undertaking of bail in this state through a licensed bail
7 licensee shall pay a fee per bail bond transaction, not to exceed
8 thirty dollars (\$30), for each bail bond posted in this state. The
9 revenue from this fee shall be deposited into the Bail Investigation
10 and Prosecution Fund.

11 (b) Moneys in the Bail Investigation and Prosecution Fund shall
12 be distributed, upon appropriation by the Legislature, to fund the
13 reasonable costs incurred in regulating entities involved in the
14 undertaking of bail as described in this section. Moneys in the Bail
15 Investigation and Prosecution Fund shall not be used for any other
16 purpose. Moneys in the Bail Investigation and Prosecution Fund
17 shall be distributed by the commissioner as follows:

18 (1) Seventy percent of these funds shall be distributed within
19 the department for consumer enforcement and protection purposes
20 related to bail transactions, including, but not limited to:

21 (A) Investigating and prosecuting unlawful conduct by bail
22 licensees, or a person or entity purporting to solicit or negotiate in
23 respect to execution or delivery of an undertaking of bail or bail
24 bond, or execute or deliver an undertaking of bail or bail bond, or
25 matters subsequent to the execution of an undertaking of bail or
26 bail bond contract and arising out of it.

27 (B) Responding to consumer inquiries and complaints related
28 to bail transactions.

1 (C) Regulating and overseeing bail bond products, solicitation,
2 and advertising directed toward consumers.

3 (D) The cost of any fiscal audit performed pursuant to this
4 section.

5 (2) Thirty percent of the funds shall be distributed to county
6 district attorneys and city attorneys, for investigating and
7 prosecuting surety insurer and bail abuse cases involving licensees,
8 or any person or entity engaged in the solicitation or negotiation
9 in respect to execution or delivery of an undertaking of bail or bail
10 bond, or execution or delivery of an undertaking of bail or bail
11 bond.

12 (A) The commissioner shall distribute funds to county district
13 attorneys and city attorneys who show a likely positive outcome
14 that will benefit consumers in the local jurisdiction based on
15 specific criteria promulgated by the commissioner. Each local
16 district attorney and city attorney desiring a portion of those funds
17 shall submit to the commissioner an application, including, at a
18 minimum, all of the following:

19 (i) The proposed use of the moneys and the anticipated outcome.

20 (ii) A list of all prior relevant cases or projects and a copy of
21 the final accounting for each. If cases or projects are ongoing, the
22 most recent accounting shall be provided.

23 (iii) A detailed budget, including salaries and general expenses,
24 specifically identifying the cost of purchase or rental of equipment
25 or supplies.

26 (B) Each district attorney and city attorney that receives funds
27 pursuant to this section shall submit a final detailed accounting at
28 the conclusion or closure of each case or project. For cases or
29 projects that continue longer than six months, interim accountings
30 shall be submitted every six months, or as otherwise directed by
31 the commissioner.

32 (C) Each district attorney and city attorney that receives funds
33 pursuant to this section shall submit a final report to the
34 commissioner, which may be made public, as to the success of the
35 cases or projects conducted. The report shall provide information
36 and statistics on the number of active investigations, arrests,
37 indictments, and convictions. The applications for moneys, the
38 distribution of moneys, and the annual reports shall be public
39 documents.

1 (c) Notwithstanding any other provision of this section,
2 information submitted to the commissioner pursuant to this section
3 concerning criminal investigations, whether active or inactive,
4 shall be confidential.

5 (d) The commissioner may conduct a fiscal audit of the programs
6 administered under this subdivision. If conducted, this fiscal audit
7 shall be conducted by an internal audit unit of the department.

8 (e) If the commissioner determines that a district attorney or
9 city attorney is unable or unwilling to investigate or prosecute a
10 relevant bail abuse case, the commissioner may discontinue
11 distribution of funds allocated for that matter and may redistribute
12 those funds to other eligible district attorneys or city attorneys.

13 (f) If, as of June 30 of any calendar year, the total amount in
14 the Bail Investigation and Prosecution Fund exceeds eight million
15 dollars (\$8,000,000), the commissioner shall reduce the amount
16 of the assessment accordingly for the following year to eliminate
17 that excess. A surety insurer, upon receipt of an invoice, shall
18 transmit payment to the department for deposit in the Bail
19 Investigation and Prosecution Fund. Any balance remaining in the
20 Bail Investigation and Prosecution Fund at the end of the fiscal
21 year shall be retained in the account, to be available in the next
22 fiscal year.

23 (g) The commissioner may develop guidelines for implementing
24 or clarifying these provisions, including guidelines for the
25 allocation, distribution, and potential return of unused funds. The
26 commissioner may, from time to time, issue regulations for
27 implementing or clarifying these provisions. Regulations adopted
28 pursuant to this section shall not be subject to the requirements of
29 the Administrative Procedure Act (Chapter 3.5 (commencing with
30 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
31 Code).

32 (h) The commissioner shall provide a consolidated report
33 annually on the department's Internet Web site, which shall
34 include, but is not limited to, the following information:

35 (1) The number of consumer complaints regarding to bail bond
36 transactions.

37 (2) The number of investigations initiated relating to bail bond
38 transactions.

39 (3) The number of investigations related to bail and bail bond
40 transactions referred to and reported by prosecuting agencies.

1 (4) The number of administrative or regulatory cases related to
2 bail and bail bond transactions referred to the department's legal
3 division.

4 (5) The number of administrative or regulatory enforcement
5 actions taken in cases related to bail and bail bond transactions.

6 (i) A violation of this section is not a crime pursuant to Section
7 1814.

8 SEC. 2. The Legislature finds and declares that this act imposes
9 limits on the public's right of access to meetings of public bodies
10 or the writings of public officials and agencies within the meaning
11 of Section 3 of Article I of the California Constitution. Pursuant
12 to that constitutional provision, the Legislature makes the following
13 finding to demonstrate the interest protected by this limitation and
14 the need for protecting that interest:

15 In order to ensure that criminal investigations are not frustrated
16 or hindered, it is necessary to limit the public's right of access to
17 information submitted to the Insurance Commissioner pursuant to
18 this act concerning criminal investigations.